

**TRANSPORTATION DEPARTMENT[761]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10, 307.12, 321.449 and 321.450, the Iowa Department of Transportation, on March 13, 2013, adopted amendments to Chapter 520, "Regulations Applicable to Carriers," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the February 6, 2013, Iowa Administrative Bulletin as **ARC 0591C**.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 Code of Federal Regulations (CFR), Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR. Each year a revised edition of 49 CFR is published, incorporating all of the final regulations adopted during the year.

To ensure the consistency required by statute, the Department annually adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The amendments to the FMCSR and the HMR that have become final and effective since the 2011 edition of the CFR are listed below. The parts affected are followed by FR citations.

Amendments to the FMCSR and Federal HMR

Part 391 (FR Vol. 76, No. 220, Pages 70661-70663, 11-15-11)

The Federal Motor Carrier Safety Administration (FMCSA) amends its regulations to keep in effect until January 30, 2014, the requirement that interstate drivers subject to the commercial driver's license (CDL) regulations and the federal physical qualification requirements must retain paper copies of the drivers' medical examiner's certificates. Interstate motor carriers are also required to retain copies of the drivers' medical certificates in the drivers' qualification files. This action is being taken to ensure the medical qualification of CDL holders until all states are able to post the medical self-certification and medical examiner's certificate data on the Commercial Driver's License Information System (CDLIS) driver record. This rule does not, however, extend the compliance dates for states to collect and to post to the CDLIS driver record data from a CDL holder's medical self-certification and medical examiner's certificate. Effective Date: December 15, 2011.

Parts 177, 390, 391 and 392 (FR Vol. 76, No. 232, Pages 75470-75488, 12-2-11)

The FMCSA and Pipeline Hazardous Materials Safety Administration (PHMSA) are amending the FMCSRs and the HMRs to restrict the use of hand-held mobile telephones by drivers of commercial motor vehicles (CMVs). This rule making will improve safety on the nation's highways by reducing the prevalence of distracted driving-related crashes, fatalities, and injuries involving drivers of CMVs. The FMCSA and PHMSA also amend regulations to implement new driver disqualification sanctions for drivers of CMVs who fail to comply with this federal restriction and new driver disqualification sanctions for commercial driver's license (CDL) holders who have multiple convictions for violating a state or local law or ordinance on motor vehicle traffic control that restricts the use of hand-held mobile

telephones. Additionally, motor carriers are prohibited from requiring or allowing drivers of CMVs to use hand-held mobile telephones. Effective Date: January 3, 2012.

Parts 385, 390 and 395 (FR Vol. 76, No. 248, Pages 81133-81188, 12-27-11)

The FMCSA revises the hours of service regulations to limit the use of the 34-hour restart provision to once every 168 hours and to require that anyone using the 34-hour restart provision have as part of the restart two periods that include 1 a.m. to 5 a.m. The rule also includes a provision that allows truckers to drive if the driver had a break of at least 30 minutes, at a time of the driver's choosing, sometime within the previous 8 hours. This rule does not include a change to the daily driving limit because the FMCSA is unable to definitively demonstrate that a 10-hour limit—which it favored in the notice of proposed rule making—would have higher net benefits than an 11-hour limit. The current 11-hour limit is therefore unchanged at this time. The 60- and 70-hour limits are also unchanged. The purpose of the rule is to limit the ability of drivers to work the maximum number of hours currently allowed, or close to the maximum, on a continuing basis to reduce the possibility of driver fatigue. Long daily and weekly hours are associated with an increased risk of crashes and with the chronic health conditions associated with lack of sleep. These changes will affect only the small minority of drivers who regularly work the longer hours. Effective Date: February 27, 2012.

Parts 172 and 173 (FR Vol. 76, No. 249, Pages 81396-81400, 12-28-11)

On July 20, 2011, the PHMSA published a final rule under Docket Number PHMSA-2009-0151 (HM-218F) making miscellaneous amendments to HMR; 49 CFR Parts 171-180. The amendments made by PHMSA in the July 20, 2011, final rule promote safer transportation practices; eliminate unnecessary regulatory requirements; finalize outstanding petitions for rule making; facilitate international commerce; and simplify the regulations. This final rule corrects errors in the pictorial display of labels, eliminates references to transitional provisions that were previously removed from the HMR, clarifies shipping paper amendments, corrects an editorial error, and extends the effective date of certain shipping paper amendments adopted in the July 20, 2011, final rule. Effective Date: December 28, 2011.

Part 390 (FR Vol. 76, No. 251, Pages 82179-82180, 12-30-11)

The FMCSA is correcting a final rule that appeared in the FR on December 2, 2011 (76 FR 75470), which restricted the use of hand-held mobile telephones by drivers of CMVs. That rule was jointly issued by FMCSA and PHMSA, but this correction only affects an FMCSA regulation. Effective Date: January 3, 2012.

Parts 172 and 173 (FR Vol. 76, No. 251, Pages 82163-82179, 12-30-11)

This PHMSA document responds to administrative appeals, provides clarifications, and corrects typographical and other minor errors adopted in an international harmonization final rule published January 19, 2011 (HM-215K; 76 FR 3308). The final rule amended the HMRs by revising, removing or adding proper shipping names, the hazard class of a material, packing group assignments, special provisions, packaging authorizations, packaging sections, air transport quantity limitations, and vessel stowage requirements. The amendments were necessary to align the HMR with recent revisions to international standards for the transport of hazardous materials by all modes. Effective Date: January 1, 2012.

Part 391 (FR Vol. 77, No. 8, Pages 1889-1891, 01-12-12)

The FMCSA amends its December 3, 2011, final rule that restricted the use of hand-held mobile telephones by drivers of CMVs. That rule was jointly issued by FMCSA and PHMSA, but this technical amendment only affects an FMCSA regulation. The purpose of this rule is to correct a clerical error. Effective Date: January 12, 2012.

Part 391 (FR Vol. 77, No. 19, Pages 4479-4491, 01-30-12)

The FMCSA amends the physical qualifications for drivers and the instructions for the medical examination report to clarify that drivers may not use Schedule I drugs and be qualified to drive CMVs under any circumstances. The rule harmonizes FMCSA's provisions regarding pre-employment and return-to-duty test refusals with corresponding U.S. Department of Transportation-wide provisions. The rule also corrects inaccurate uses of the term "actual knowledge." Effective Date: February 29, 2012.

Part 395 (FR Vol. 77, No. 29, Page 7544, 02-13-12)

The FMCSA corrects the hours of service final rule published on December 27, 2011 (76 FR 81143). This notice corrects the amendatory language or guidance to legal editors of the CFR on the proper codification of the December 27, 2011, rule. This notice does not change, in any manner, the regulatory text. Effective Date: February 27, 2012.

Part 391 (FR Vol. 77, No. 35, Pages 10391-10400, 02-22-12)

The FMCSA is correcting a final rule that appeared in the FR on January 30, 2012 (77 FR 4479), which amended the physical qualifications for drivers and the instructions for the medical examination report to clarify that drivers may not use Schedule I drugs and be qualified to drive CMVs under any circumstances. Effective Date: February 22, 2012.

Parts 390 and 391 (FR Vol. 77, No. 77, Pages 24103-24135, 04-20-12)

The FMCSA establishes a National Registry of Certified Medical Examiners (National Registry) with requirements that all medical examiners who conduct physical examinations for interstate CMV drivers meet the following criteria: complete certain training concerning FMCSA's physical qualification standards, pass a test to verify an understanding of those standards, and maintain and demonstrate competence through periodic training and testing. Following establishment of the National Registry and a transition period, FMCSA will require that motor carriers and drivers use only those medical examiners on the FMCSA's National Registry and will only accept as valid medical examiner's certificates issued by medical examiners listed on the National Registry. FMCSA is developing the National Registry program to improve highway safety and driver health by requiring that medical examiners be trained and certified so they can determine effectively whether a CMV driver's medical fitness for duty meets FMCSA's standards. Effective Date: May 21, 2012. Compliance required: May 21, 2014.

Part 385 (FR Vol. 77, No. 89, Pages 26989-26990, 05-08-12)

The FMCSA published a final rule in the FR on Monday, May 9, 2011, that became effective on July 8, 2011. That final rule amended the CDL knowledge and skills testing standards and established new minimum federal standards for states to issue the commercial learner's permit. Since the final rule was published, FMCSA identified minor discrepancies regarding section references in existing regulatory text resulting from the final rule. This document corrects those section references. Effective Date: May 8, 2012.

Parts 385, 395 and 396 (FR Vol. 77, No. 93, Pages 28447-28451, 05-14-12)

This FMCSA final rule rescinds the final rule published on April 5, 2010, entitled "Electronic On-Board Recorders for Hours-of-Service Compliance" and amended by a September 13, 2010, technical amendment. This action responds to a decision of the Court of Appeals for the Seventh Circuit that vacated the April 2010 final rule. Effective Date: May 14, 2012.

Parts 385 and 395 (FR Vol. 77, No. 93, Pages 28451-28454, 05-14-12)

This FMCSA final rule repromulgates in the CFR a statutory requirement that FMCSA revoke the operating authority registration of a for-hire motor carrier for failure to comply with safety fitness requirements. If the FMCSA determines that a motor carrier is "unfit" based on its safety fitness determination procedures, the FMCSA must revoke the carrier's operating authority registration. Unfit motor carriers are prohibited from operating in interstate commerce, and the Secretary of Transportation is required by statute to revoke the motor carrier's operating authority registration. This final rule

also repromulgates several technical provisions and makes nonsubstantive administrative changes. These changes, initially adopted as part of the April 5, 2010, final rule entitled “Electronic On-Board Recorders for Hours-of-Service Compliance,” are necessary because, for reasons unrelated to this final rule, the United States Court of Appeals for the Seventh Circuit invalidated the previous rule. Effective Date: May 14, 2012.

Parts 390 and 396 (FR Vol. 77, No. 113, Pages 34846-34853, 06-12-12)

The FMCSA eliminates the requirement for drivers operating intermodal equipment to submit and intermodal equipment providers to retain driver-vehicle inspection reports when the driver has neither found nor been made aware of any defects in the intermodal equipment. This rule responds to a joint petition for rule making from the Ocean Carrier Equipment Management Association and the Institute of International Container Lessors. Effective Date: June 12, 2012.

Parts 171, 172, 173 and 180 (FR Vol. 77, No. 122, Pages 37961-37992, 06-25-12)

The PHMSA is amending the HMRs to incorporate provisions contained in certain widely used or longstanding rail special permits that have general applicability and established safety records. Special permits allow a company or an individual to package or ship a hazardous material in a manner that varies from the regulations, provided an equivalent level of safety is maintained. Incorporating the special permits discussed in this rule making will provide users of the regulations with wider access to the regulatory flexibility offered in these special permits, eliminate the need for numerous renewal requests, reduce paperwork burdens, and facilitate commerce while maintaining an appropriate level of safety. This rule making also responds to two petitions for rule making concerning the use of electronic shipping papers and the removal of the Association of American Railroad’s AAR-600 portable tank program for previously adopted standards that meet or exceed the AAR-600 requirements. Effective Date: July 25, 2012.

Part 393 (FR Vol. 77, No. 151, Pages 46633-46640, 08-06-12)

The FMCSA amends the requirements regarding brake readjustment limits in the FMCSRs. This rule amends the readjustment limits, clarifies the application, and corrects an error in cross-referencing a federal motor vehicle safety standard. This rule responds to a petition for rule making from the Commercial Vehicle Safety Alliance. Effective Date: September 5, 2012.

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation’s highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

These amendments are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 321.449 and 321.450.

These amendments will become effective May 8, 2013.

Rule-making actions:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

*a. Motor carrier safety regulations.* The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, 2011 2012).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

*b. Hazardous materials regulations.* The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, 2011 2012).

[Filed 3/13/13, effective 5/8/13]

[Published 4/3/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/3/13.